



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,385	03/17/2004	James V. Miller	P00918-US-00 (25490.0031)	3674
22446	7590	11/13/2006	EXAMINER JOHNSON, BLAIR M	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/802,385	MILLER, JAMES V.	
	Examiner	Art Unit	
	Blair M. Johnson	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

The amendment filed 10/16/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The thickness of the slat is said to be 0.040 inches. However, only a portion of the engaging track is shown having this thickness and the main body of the slat appears to be significantly thicker. The statement that the slat is extruded from 0.040 inch metal is not understood since extrusion is the process wherein liquid material, in this case metal, is forced through a nozzle which forms the shape. On page 9, the different degrees, 110, 70 and 90, are not shown in the original shop drawings. On page 12, the arc 354 is said to be various degrees. However, on page 13, it is actually calculated to be 297.96 degrees. These arcs with other degrees disclosed do not have basis in the original specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

The disclosure is objected to because of the following *informalities*: on page 10, line 11, "retention" should be "engagement". On page 12, line 3, "Fig. 4" should be "Fig. 3". On page 15, line 20, "FIG. 4" should be "FIG. 8".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 8-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Note that the subject of certain new matter objections discussed above also appear in the claims, such as the angles of the curved surface in the receptacle track.

In claim 8, etc., the “decreasing-radius arc” is incorrect. Surface 265 has a radius of curvature that is clearly different and shorter than the radius of curvature where lead line 6 is located on the inner surface of the engagement track, which is almost planar. Also in claim 8 as well as other claims, while no specific arc for inner surface 6 is disclosed, it appears to be significantly more than 180 degrees. While claim 8 recites “at least 180 degrees”, which surface 6 clearly is, claim coverage would extend from 181 degrees upward to 360 degrees. The disclosure does not provide proper basis for claiming an arc of a specific number of degrees between 181 degrees to 360 degrees. Dependent claims that recite specific angles, i.e. 210, 230, etc., also do not have basis in the disclosure. Also in claim 8, the vertical movement less than 0.1 inches similarly establishes a larger range than that disclosed, namely 0.043 inches.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-16,20-23,25 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneider.

In Fig. 1, see engaging track 2 and receptacle track 3. The engaging track has a decreasing radius arc ending at a tip. The receptacle track has a lip (defining the left edge of the opening into receptacle 5), a first articulation surface (clockwise from the lip), a second articulation surface at the top of the receptacle 5, the surfaces being separated by a planar portion, i.e. discontinuous, and a gap is located between the ends of the surfaces.

Double Patenting

Claims 8-27 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28-47, respectively, of copending Application No. 11/058,879. This is a provisional obviousness-type double patenting rejection.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Remarks concerning claim 8 are moot in light of the new grounds of rejection.

Regarding claim 13, applicant is correct in his interpretation of the Examiner's view of Schnieder, but only to a point. The lip does extend so that it gets closer to the second articulation surface to a certain extent. Also the gap would be across the inside of the receptacle from one edge of the second articulation surface to the edge of the first articulation surface.

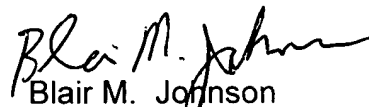
Art Unit: 3634

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
10/31/06